

APR 28 2005

OFFICIAL

CARDINAL LAW GROUP

1603 Orrington Avenue/Suite 2000
Evanston, Illinois 60201
Telephone 847 - 905 - 7111
Facsimile 847 - 905 - 7113

Date: APRIL 28, 2005

To: EXAMINER HUY D. NGUYEN
U.S. PATENT AND TRADEMARK OFFICE

Fax #: (703) 872-9306

From: DARRIN WESLEY HARRIS
Phone #: (847) 905-7111

Client/Matter No.: DE 000051 (7790/321)

of Pages: 38
(including cover sheet)

IF YOU HAVE ANY PROBLEMS RECEIVING THIS MESSAGE, PLEASE CALL 847/905-7111, Ext. 112 AND ASK FOR JENNIFER CRUZ.

THIS MESSAGE IS INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IT MAY CONTAIN PRIVILEGED, CONFIDENTIAL, ATTORNEY WORK PRODUCT, OR TRADE SECRET INFORMATION WHICH IS EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAWS. IF YOU ARE NOT THE INTENDED RECIPIENT, OR AN EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE (AND ALL COPIES) TO US BY MAIL AT THE ABOVE ADDRESS. WE WILL REIMBURSE YOU FOR POSTAGE.

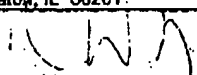
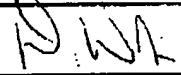
PTO/SB/21 (12-97), Approved for use through 8/2000. OMB 0321-0021. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paper Reduction Act of 1992, no person is required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Attorney Docket No.	DE 000061(7790/321)
	Application Number	09/718,247
	Filing Date	NOVEMBER 22, 2000
	First Named Inventor	CHRISTOPH HERMANN
	Group Art Unit	2881
	Examiner	NGUYEN, HUY D.

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Amendment <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Status Letter <input type="checkbox"/> Petition for Extension of Time Request (dupl/c) <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement, PTO-1449, art <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawings: <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request of Refund	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Brief <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Post Card Receipt <input type="checkbox"/> Additional Enclosure(s) (please identify below): <div style="border: 1px solid black; height: 20px; width: 100%;"></div> <div style="border: 1px solid black; height: 20px; width: 100%;"></div> <div style="border: 1px solid black; height: 20px; width: 100%;"></div>
<input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 50-1713. A duplicate copy of this sheet is enclosed.		
<input checked="" type="checkbox"/> I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 50-1713. A duplicate copy of this sheet is enclosed.		

CALCULATION OF FEE

				Small Entity		Large Entity			
	Claims After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus		0	x \$25=	0		x \$50=	
Indep.		Minus		0	x \$100	0		x 200	
First Presentation of Multiple Dep. Claim					+ \$180	--		+ \$360	
					total add'l fee	\$ 0		total add'l fee	\$

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	DARRIN WESLEY HARRIS Registration No. 40,636 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
Signature			Date April 28, 2005
CERTIFICATE OF FACSIMILE			
I hereby certify that this correspondence is being transmitted via facsimile to (703) 872-9306 to the United States Patent and Trademark Office on this date: April 28, 2005			
Signature			Date: April 28, 2005
DARRIN WESLEY HARRIS (40,636)			

Certificate of Facsimile
I hereby certify that this correspondence is being
transmitted by facsimile to (703) 872-4306 to the U.S.
Patent and Trademark Office April 28, 2005
(Date of Deposit)

**RECEIVED
CENTRAL FAX CENTER**

APR 28 2005

Darrin Wesley Harris (40,636)
Name of Appellant, assignee or registered representative

Signature

April 28, 2005

Date of Signature

PATENT
Case No. DE 000051
(7790/321)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:

CHRISTOPH HERMANN

Serial No.: 09/718,247

Filed: NOVEMBER 22, 2000

For: WIRELESS NETWORK WITH A
CIPHER KEY CHANGE PROCEDURE

Examiner: NGUYEN, HUY D.

Group Art Unit: 2681

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows:

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 2 of 36

TABLE OF CONTENTS

	<u>Page</u>
1. REAL PARTY IN INTEREST.....	3
2. RELATED APPEALS AND INTERFERENCES.....	4
3. STATUS OF CLAIMS.....	5
4. STATUS OF AMENDMENTS.....	6
5. SUMMARY OF CLAIMED INVENTION.....	7
6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....	9
7. ARGUMENT.....	10
8. CLAIMS APPENDIX.....	26
9. EVIDENCE APPENDIX.....	None
10. RELATED PROCEEDINGS APPENDIX.....	None

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 3 of 36

1. REAL PARTY IN INTEREST

The real party in interest is the assignee of record U.S. Philips Corporation, a Delaware corporation having an office and a place of business at 1251 Avenue of the Americas, New York, NY 10020-1104.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 4 of 36

2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 5 of 36

3. STATUS OF CLAIMS

Claims 9-40 are currently pending in the present application, and are the claims on appeal. See, Claims Appendix.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 6 of 36

4. STATUS OF AMENDMENTS

Appellant filed an after final request for reconsideration of claims 9-40 in response to a Final Office Action dated November 29, 2004. The request for reconsideration was not entered into the record by Examiner Nguyen.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 7 of 36

5. SUMMARY OF THE CLAIMED INVENTION

As illustrated in FIG. 4, the present application discloses a first cipher key change technique CKC1 involving a transmission of a cipher change command CCC1 and the new cipher key (coded with the old cipher key) from a radio network controller ("RNC") to a terminal ("TM"). After terminal TM has received cipher change command CCC1, an acknowledge command ACK11 is transmitted to radio network controller RNC to thereby prevent radio network controller RNC from retransmitting the cipher change command CCC1 after a specific period of time. Terminal TM thereafter transmits a cipher key acknowledge command CCOK1 (coded with the new cipher key) to radio network controller RNC, which announces the reception of the cipher key acknowledge command CCOK1 by radio network controller RNC by means of an acknowledge command ACK21. Radio network controller RNC attempts to decipher cipher key acknowledge command CCOK1 with the new cipher key to determine whether cipher key acknowledge command CCOK1 was properly encoded with the new key by terminal TM. If acknowledge command CCOK1 was properly encoded with the new key by terminal TM, then radio network controller RNC transmits a match command KOK1 to terminal TM to indicate a successful key change. *See, U.S. Patent Application Serial No. 09/718,247 at page 4, line 31 to page 6, line 15.*

As illustrated in FIG. 5, the present application discloses a second cipher key change CCK2 technique involving a transmission of a cipher change command CCC2 (coded with the old cipher key) from a radio network controller ("RNC") to a terminal

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 8 of 36

("TM"). After terminal TM has received cipher change command CCC2, an acknowledge command ACK12 is transmitted to radio network controller RNC to thereby prevent radio network controller RNC from retransmitting the cipher change command CCC2 after a specific period of time. Terminal TM thereafter transmits a cipher key acknowledge command CCOK2 (coded with the new cipher key) to radio network controller RNC, which announces the reception of the cipher key acknowledge command CCOK2 by radio network controller RNC by means of an acknowledge command ACK22. Radio network controller RNC attempts to decipher cipher key acknowledge command CCOK2 with the new cipher key to determine whether cipher key acknowledge command CCOK2 was properly encoded with the new key by terminal TM. If acknowledge command CCOK2 was properly encoded with the new key by terminal TM, then radio network controller RNC transmits a match command KOK2 coded with the new cipher key to terminal TM to indicate a successful key change. Otherwise, radio network controller RNC transmits match command KOK2 coded with the old cipher key to terminal TM to indicate an unsuccessful key change. See, U.S. Patent Application Serial No. 09/718,247 at page 6, line 16 to page 8, line 22.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 9 of 36

6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 9-40 stand finally rejected under 35 U.S.C. §102(b) as being anticipated by
U.S. Patent No. 5,146,498 to *Smith*.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 10 of 36

7. ARGUMENT

Smith. As illustrated in FIGS. 1 and 2, *Smith* teaches a method for changing a key by a subscriber unit 10 and a method for generating a change key command by a central controller 20, respectively. In operation, whenever subscriber unit 10 needs to be rekeyed as determined in a step 14 (FIG. 2), central controller 20 sends a key change command with op code to subscriber unit 10 as shown in a step 21 (FIG. 2). Upon receipt of the key change command in a step 2 (FIG. 1), subscriber unit 10 decodes the op code in a step 24 (FIG. 1) to thereby generate a new key in step 26 (FIG. 1) and sends an acknowledge tone that the new key has been generated in a step 28 (FIG. 1).

Upon receipt of the acknowledge tone in a step 32 (FIG. 2), central controller 20 returns to step 14 (FIG. 2) to await a determination that a radio needs to be rekeyed. Conversely, upon a failure to receive the acknowledge tone in step 32 (FIG. 2), central controller 20 proceeds to a step 34 (FIG. 2) to determine whether to resend the key change command with op code in step 21 (FIG. 2) or to place subscriber unit 10 on a list of radios that need rekeying in a step 36 (FIG. 2). Central controller 20 may loop through steps 21, 32 and 34 before proceeding to step 36. See, Smith at column 2, line 66 to column 4, line 8.

One issue related to an interpretation of *Smith* is whether subscriber unit 10 encodes the acknowledge tone with the new key in step 28 (FIG. 1). Explicitly, *Smith* is silent as to whether the acknowledge tone is or is not encoded. Implicitly, *Smith* indicates the acknowledge tone IS NOT encoded by failing in step 21, step 32, step 34

April 28, 2005
Case No. DI: 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 11 of 36

and/or an additional step to teach (1) an attempt to decode the acknowledge tone with the new key by central controller 20 to thereby determine whether the acknowledge tone was properly encoded by subscriber unit 10 with the new key, (2) upon decoding the encoded acknowledge tone with the new key, a transmission of a signal from central controller 20 to subscriber unit 10 that verifies the decoding of the encoded acknowledge tone with the new key by central controller 20, and (3) upon failing to decode the encoded acknowledge tone with the new key, a transmission of a signal from central controller 20 to subscriber unit 10 that communicates the failure by central controller 20 to decoding the encoded acknowledge tone with the new key.

Specifically, an encoding of the acknowledge tone with the new key by subscriber unit 10 merits an attempted decoding of the encoded acknowledge tone by central controller 20 upon receiving the encoded acknowledge tone. This attempted decoding further merits a determination by central controller 20 as to whether the acknowledge tone was properly encoded with the new key. Logically, a failure by *Smith* to teach a determination by central controller 20 as to whether the acknowledge tone was properly encoded with the new key unequivocally indicates an intention by *Smith* NOT to encode the acknowledge tone with the new key, old key or any other key.

Unequivocally, a proper understanding of *Smith* reveals that *Smith* does not teach or suggest any signal comparable to coded cipher key acknowledge command CCOK2 and coded match key command KOK2 as taught by the present application.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 12 of 36

Moreover, *Smith* teaches away from a coding of the acknowledgement of step 28 (FIG. 1). Specifically, one benefit of the key change method of *Smith* is an elimination of a prior art need to use a data channel as the channel for implementing exchanging key information between subscriber unit 10 and central controller 20. See, *Smith* at column 1, line 46 to column 2, line 12; and column 5, line 61 to column 6, line 2. The benefit entails the efficient use of a control channel by central controller 20 to simultaneously send the digital word 42 (FIG. 3) to a plurality of subscriber units 10 without consuming a lot of air time and any additional system access time over the control channel.

Smith further teaches that any new key resulting from digital word 42 is to be used to encrypt and decrypt data/voice over the data channel. See, *Smith* at column 1, line 46 to column 2, line 12; and column 5, line 61 to column 6, line 2. *Smith* neither teaches nor ever intended the new key to be used to encrypt and decrypt control information (e.g., an acknowledgment tone) over the control channel. This is supported by the fact that such encryption and decryption of control information from a plurality of subscriber units 10 would consume additional air time and require additional system access time, which is in direct contradiction to the objectives of *Smith*.

Anticipation. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaul Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "When a claim covers several structures or

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 13 of 36

compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art." *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001) (claim to a system for setting a computer clock to an offset time to address the Year 2000 (Y2K) problem, applicable to records with year date data in "at least one of two-digit, three-digit, or four-digit" representations, was held anticipated by a system that offsets year dates in only two-digit formats). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). See, MPEP §2131.

Independent Claim 9. The Appellant respectfully traverses the §102(b) rejection of independent claim 9, because *Smith* fails to teach or suggest "wherein said terminal is operable to transmit a second message to said radio network controller subsequent to a reception of the first message by said terminal, the second message being coded with a new cipher key as an acknowledgement of the cipher key change by said terminal" in as complete detail as recited in independent claim 9. Withdrawal of the rejection of independent claim 9 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claims 10 And 18. The Appellant respectfully traverses the §102(b) rejection of dependent claims 10 and 18, because *Smith* fails to teach or

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 14 of 36

suggest "wherein the first message includes the new cipher key" in as complete detail as recited in dependent claims 10 and 18. Withdrawal of the rejection of dependent claims 10 and 18 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 11. The Appellant respectfully traverses the §102(b) rejection of dependent claim 11, because *Smith* fails to teach or suggest "wherein said radio network controller is operable to transmit a third message to said terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a deciphering by said radio network controller of the second message with the new cipher key" in as complete detail as recited in dependent claim 11. Withdrawal of the rejection of dependent claim 11 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claims 12 And 20. The Appellant respectfully traverses the §102(b) rejection of dependent claims 12 and 20, because *Smith* fails to teach or suggest "wherein the third message is coded with the new cipher key as an indication that said radio network controller deciphered the second message with the new cipher key" in as complete detail as recited in dependent claims 12 and 20. Withdrawal of the rejection of dependent claims 12 and 20 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 15 of 36

Dependent Claim 13. The Appellant respectfully traverses the §102(b) rejection of dependent claim 13, because *Smith* fails to teach or suggest “wherein said radio network controller includes means for verifying a use of the new cipher key by said terminal subsequent to a reception of the second message by said radio network controller” in as complete detail as recited in dependent claim 13. Withdrawal of the rejection of dependent claim 13 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 14. The Appellant respectfully traverses the §102(b) rejection of dependent claim 14, because *Smith* fails to teach or suggest “wherein said radio network controller and said terminal include means for synchronizing a conversion from an old cipher key to the new cipher key” in as complete detail as recited in dependent claim 14. Withdrawal of the rejection of dependent claim 14 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 15. The Appellant respectfully traverses the §102(b) rejection of dependent claim 15, because *Smith* fails to teach or suggest “wherein said radio network controller is operable to transmit a third message to said terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a failure by said radio network controller to decipher

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 16 of 36

the second message with the new cipher key" in as complete detail as recited in dependent claim 15. Withdrawal of the rejection of dependent claim 15 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claims 16 And 24. The Appellant respectfully traverses the §102(b) rejection of dependent claims 16 and 24, because *Smith* fails to teach or suggest "wherein the third message is coded with an old cipher key as an indication that said radio network controller failed to decipher the second message with the new cipher key" in as complete detail as recited in dependent claims 16 and 24. Withdrawal of the rejection of dependent claims 16 and 24 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Independent Claim 17. The Appellant respectfully traverses the §102(b) rejection of independent claim 17, because *Smith* fails to teach or suggest "means for receiving a second message from the terminal subsequent to a reception of the first message by the terminal, the second message being coded with a new cipher key as an acknowledgement of the cipher key change by the terminal" in as complete detail as recited in independent claim 17. Withdrawal of the rejection of independent claim 17 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 17 of 36

Dependent Claim 18. The Appellant respectfully traverses the §102(b) rejection of dependent claim 18, because *Smith* fails to teach or suggest “wherein the first message includes the new cipher key” in as complete detail as recited in dependent claim 18. Withdrawal of the rejection of dependent claim 18 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 19. The Appellant respectfully traverses the §102(b) rejection of dependent claim 19, because *Smith* fails to teach or suggest “wherein said radio network controller further includes means for transmitting a third message to the terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a deciphering by said radio network controller of the second message with the new cipher key” in as complete detail as recited in dependent claim 19. Withdrawal of the rejection of dependent claim 19 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 21. The Appellant respectfully traverses the §102(b) rejection of dependent claim 21, because *Smith* fails to teach or suggest “wherein said radio network controller further includes means for verifying a use of the new cipher key by said terminal subsequent to a reception of the second message by said radio network controller” in as complete detail as recited in dependent claim 21. Withdrawal

April 28, 2005
Case No. DI: 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 18 of 36

of the rejection of dependent claim 21 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 22. The Appellant respectfully traverses the §102(b) rejection of dependent claim 22, because *Smith* fails to teach or suggest “wherein said radio network controller includes means for synchronizing a conversion from an old cipher key to the new cipher key” in as complete detail as recited in dependent claim 22. Withdrawal of the rejection of dependent claim 22 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 23. The Appellant respectfully traverses the §102(b) rejection of dependent claim 23, because *Smith* fails to teach or suggest “wherein said radio network controller further includes means for transmitting a third message to the terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a failure by said radio network controller to decipher the second message with the new cipher key” in as complete detail as recited in dependent claim 23. Withdrawal of the rejection of dependent claim 23 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 19 of 36

Dependent Claim 25. The Appellant respectfully traverses the §102(b) rejection of dependent claim 25, because *Smith* fails to teach or suggest “means for transmitting a second message to the radio network controller subsequent to a reception of the first message by the terminal, the second message being coded with a new cipher key as an acknowledgement of the cipher key change by the terminal” in as complete detail as recited in dependent claim 25. Withdrawal of the rejection of dependent claim 25 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 26. The Appellant respectfully traverses the §102(b) rejection of dependent claim 26, because *Smith* fails to teach or suggest “wherein said terminal further includes means for receiving a third message from the radio network controller subsequent to a reception of the second message by the radio network controller, the third message being indicative of a deciphering by the radio network controller of the second message with the new cipher key” in as complete detail as recited in dependent claim 26. Withdrawal of the rejection of dependent claim 26 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 27. The Appellant respectfully traverses the §102(b) rejection of dependent claim 27, because *Smith* fails to teach or suggest “wherein said

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 20 of 36

terminal includes means for synchronizing a conversion from an old cipher key to the new cipher key" in as complete detail as recited in dependent claim 27. Withdrawal of the rejection of dependent claim 27 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 28. The Appellant respectfully traverses the §102(b) rejection of dependent claim 28, because *Smith* fails to teach or suggest "wherein said terminal further includes means for receiving a third message from the radio network controller subsequent to a reception of the second message by the radio network controller, the third message being indicative of a failure by the radio network controller to decipher the second message with the new cipher key" in as complete detail as recited in dependent claim 28. Withdrawal of the rejection of dependent claim 28 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 29. The Appellant respectfully traverses the §102(b) rejection of dependent claim 29, because *Smith* fails to teach or suggest "the terminal transmitting a second message to the radio network controller subsequent to a reception of the first message by the terminal from the radio network controller, the second message being coded with one of the old cipher key or the new cipher key as an acknowledgement of the cipher key change by the terminal" in as complete detail as

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 21 of 36

recited in dependent claim 29. Withdrawal of the rejection of dependent claim 29 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 30. The Appellant respectfully traverses the §102(b) rejection of dependent claim 30, because *Smith* fails to teach or suggest “the radio network controller transmitting a third message to the terminal subsequent to a reception of the second message by the radio network controller from the terminal, the third message being coded with one of the old cipher key or the new cipher key as an indication of one of a successful termination or an unsuccessful termination of the cipher key change” in as complete detail as recited in dependent claim 30. Withdrawal of the rejection of dependent claim 30 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 31. The Appellant respectfully traverses the §102(b) rejection of dependent claim 31, because *Smith* fails to teach or suggest “the radio network controller and the terminal validating the new cipher key” in as complete detail as recited in dependent claim 31. Withdrawal of the rejection of dependent claim 31 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 22 of 36

Dependent Claim 32. The Appellant respectfully traverses the §102(b) rejection of dependent claim 32, because *Smith* fails to teach or suggest “the radio network controller and the terminal synchronizing a conversion of the old cipher key to the new cipher key” in as complete detail as recited in dependent claim 32. Withdrawal of the rejection of dependent claim 32 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Independent Claim 33. The Appellant respectfully traverses the §102(b) rejection of independent claim 33, because *Smith* fails to teach or suggest “means for receiving a second message from the terminal subsequent to a reception of the first message by the terminal from the radio network controller, the second message being coded with one of the old cipher key or the new cipher key as an acknowledgement of the cipher key change by the terminal” in as complete detail as recited in independent claim 33. Withdrawal of the rejection of independent claim 33 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 34. The Appellant respectfully traverses the §102(b) rejection of dependent claim 34, because *Smith* fails to teach or suggest “means for transmitting a third message to the terminal subsequent to a reception of the second message by the radio network controller from the terminal, the third message being coded with one of the old cipher key or the new cipher key as an indication of one of a

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 23 of 36

successful termination or an unsuccessful termination of the cipher key change" in as complete detail as recited in dependent claim 34. Withdrawal of the rejection of dependent claim 34 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claims 35 And 39. The Appellant respectfully traverses the §102(b) rejection of dependent claims 35 and 39, because *Smith* fails to teach or suggest "means for validating the new cipher key" in as complete detail as recited in dependent claims 35 and 39. Withdrawal of the rejection of dependent claims 35 and 39 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claims 36 And 40. The Appellant respectfully traverses the §102(b) rejection of dependent claims 36 and 40, because *Smith* fails to teach or suggest "means for synchronizing a conversion of the old cipher key to the new cipher key" in as complete detail as recited in dependent claims 36 and 40. Withdrawal of the rejection of dependent claims 36 and 40 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 37. The Appellant respectfully traverses the §102(b) rejection of dependent claim 37, because *Smith* fails to teach or suggest "means for

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 24 of 36

transmitting a second message to the radio network controller subsequent to a reception of the first message by the terminal from the radio network controller, the second message being coded with one of the old cipher key or the new cipher key as an acknowledgement of the cipher key change by the terminal" in as complete detail as recited in independent claim 37. Withdrawal of the rejection of independent claim 37 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

Dependent Claim 38. The Appellant respectfully traverses the §102(b) rejection of dependent claim 38, because *Smith* fails to teach or suggest "means for receiving a third message from the radio network controller subsequent to a reception of the second message by the radio network controller from the terminal, the third message being coded with one of the old cipher key or the new cipher key as an indication of one of a successful termination or an unsuccessful termination of the cipher key change" in as complete detail as recited in dependent claim 38. Withdrawal of the rejection of dependent claim 38 under 35 U.S.C. §102(b) as being anticipated by *Smith* is therefore respectfully requested.

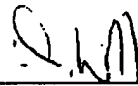
April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 25 of 36

Dated: April 28, 2005

Respectfully submitted,

PHILIPS INTELLECTUAL PROPERTY
& STANDARDS
P.O. Box 3001
Briarcliff, New York 10510

Dicran Halajian
Registration No. 39,703
Attorney for Appellant



CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111
Fax: (847) 905-7113

Darrin Wesley Harris
Registration No. 40,636
Attorney for Appellant

April 28, 2005
Case No. DI: 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 26 of 36

CLAIMS APPENDIX

9. A wireless network, comprising:

a radio network controller; and

a terminal,

wherein said radio network controller is operable to transmit a first message to said terminal, the first message being indicative of an initiation of a cipher key change, and

wherein said terminal is operable to transmit a second message to said radio network controller subsequent to a reception of the first message by said terminal, the second message being coded with a new cipher key as an acknowledgement of the cipher key change by said terminal.

10. The wireless network of claim 9, wherein the first message includes the new cipher key.

11. The wireless network of claim 9, wherein said radio network controller is operable to transmit a third message to said terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a deciphering by said radio network controller of the second message with the new cipher key.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 27 of 36

12. The wireless network of claim 11, wherein the third message is coded with the new cipher key as an indication that said radio network controller deciphered the second message with the new cipher key.

13. The wireless network of claim 9, wherein said radio network controller includes means for verifying a use of the new cipher key by said terminal subsequent to a reception of the second message by said radio network controller.

14. The wireless network of claim 9, wherein said radio network controller and said terminal include means for synchronizing a conversion from an old cipher key to the new cipher key.

15. The wireless network of claim 9, wherein said radio network controller is operable to transmit a third message to said terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a failure by said radio network controller to decipher the second message with the new cipher key.

16. The wireless network of claim 15, wherein the third message is coded with an old cipher key as an indication that said radio network controller failed to decipher the second message with the new cipher key.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 28 of 36

17. A radio network controller, comprising:
- means for transmitting a first message to a terminal, the first message being indicative of an initiation of a cipher key change; and
- means for receiving a second message from the terminal subsequent to a reception of the first message by the terminal, the second message being coded with a new cipher key as an acknowledgement of the cipher key change by the terminal.
18. The radio network controller of claim 17, wherein the first message includes the new cipher key.
19. The radio network controller of claim 17, wherein said radio network controller further includes means for transmitting a third message to the terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a deciphering by said radio network controller of the second message with the new cipher key.
20. The radio network controller of claim 19, wherein the third message is coded with the new cipher key as an indication that said radio network controller deciphered the second message with the new cipher key.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 29 of 36

21. The radio network controller of claim 17, wherein said radio network controller further includes means for verifying a use of the new cipher key by said terminal subsequent to a reception of the second message by said radio network controller.
22. The radio network controller of claim 17, wherein said radio network controller includes means for synchronizing a conversion from an old cipher key to the new cipher key.
23. The radio network controller of claim 17, wherein said radio network controller further includes means for transmitting a third message to the terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a failure by said radio network controller to decipher the second message with the new cipher key.
24. The radio controller network of claim 23, wherein the third message is coded with an old cipher key as an indication that said radio network controller failed to decipher the second message with the new cipher key.
25. A terminal, comprising:
means for receiving a first message from a radio network controller, the first message being indicative of an initiation of a cipher key change; and

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 30 of 36

means for transmitting a second message to the radio network controller subsequent to a reception of the first message by the terminal, the second message being coded with a new cipher key as an acknowledgement of the cipher key change by the terminal.

26. The terminal of claim 25, wherein said terminal further includes means for receiving a third message from the radio network controller subsequent to a reception of the second message by the radio network controller, the third message being indicative of a deciphering by the radio network controller of the second message with the new cipher key.

27. The terminal of claim 25, wherein said terminal includes means for synchronizing a conversion from an old cipher key to the new cipher key.

28. The terminal of claim 25, wherein said terminal further includes means for receiving a third message from the radio network controller subsequent to a reception of the second message by the radio network controller, the third message being indicative of a failure by the radio network controller to decipher the second message with the new cipher key.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 31 of 36

29. A method of operating a wireless network including a radio network controller and a terminal, the method comprising:

the radio network controller transmitting a first message to the terminal, the first message being indicative of an initiation of a cipher key change involving an old cipher key and a new cipher key; and

the terminal transmitting a second message to the radio network controller subsequent to a reception of the first message by the terminal from the radio network controller, the second message being coded with one of the old cipher key or the new cipher key as an acknowledgement of the cipher key change by the terminal.

30. The method of claim 29, further comprising:

the radio network controller transmitting a third message to the terminal subsequent to a reception of the second message by the radio network controller from the terminal, the third message being coded with one of the old cipher key or the new cipher key as an indication of one of a successful termination or an unsuccessful termination of the cipher key change.

31. The method of claim 29, further comprising:

the radio network controller and the terminal validating the new cipher key.

32. The method of claim 29, further comprising:

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 32 of 36

the radio network controller and the terminal synchronizing a conversion of the old cipher key to the new cipher key.

33. A radio network controller, comprising:

means for transmitting a first message to a terminal, the first message being indicative of an initiation of a cipher key change involving an old cipher key and a new cipher key; and

means for receiving a second message from the terminal subsequent to a reception of the first message by the terminal from the radio network controller, the second message being coded with one of the old cipher key or the new cipher key as an acknowledgement of the cipher key change by the terminal.

34. The radio network controller of claim 33, further comprising:

means for transmitting a third message to the terminal subsequent to a reception of the second message by the radio network controller from the terminal, the third message being coded with one of the old cipher key or the new cipher key as an indication of one of a successful termination or an unsuccessful termination of the cipher key change.

35. The radio network controller of claim 33, further comprising:

means for validating the new cipher key.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 33 of 36

36. The radio network controller of claim 33, further comprising:
means for synchronizing a conversion of the old cipher key to the new cipher key.
37. A terminal, comprising:
means for receiving a first message from a radio network controller, the first message being indicative of an initiation of a cipher key change involving an old cipher key and a new cipher key; and
means for transmitting a second message to the radio network controller subsequent to a reception of the first message by the terminal from the radio network controller, the second message being coded with one of the old cipher key or the new cipher key as an acknowledgement of the cipher key change by the terminal.
38. The terminal of claim 37, further comprising:
means for receiving a third message from the radio network controller subsequent to a reception of the second message by the radio network controller from the terminal, the third message being coded with one of the old cipher key or the new cipher key as an indication of one of a successful termination or an unsuccessful termination of the cipher key change.
39. The terminal of claim 37, further comprising:

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 34 of 36

means for validating the new cipher key.

40. The terminal of claim 37, further comprising:

means for synchronizing a conversion of the old cipher key to the new cipher key.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 35 of 36

EVIDENCE APPENDIX

None.

April 28, 2005
Case No. DE 000051 (7790/321)
Serial No.: 09/718,247
Filed: November 22, 2000
Page 36 of 36

RELATED PROCEEDINGS APPENDIX

None.